

SERVICE COPY

IN THE CIRCUIT COURT FOR WILSON COUNTY FIFTEENTH JUDICIAL DISTRICT

WILLIAM RICE,

PLAINTIFF,

vs.

MOSSBERG CORPORATION,
O.F. MOSSBERG & SONS, INC., and
MAVERICK ARMS, INC.

DEFENDANTS.

No. 2011-CV-189
JURY DEMAND

FILED

A.M. APR 18 2011

3:36 P.M. *K*

LINDA NEAL, CIRCUIT COURT CLERK
WILSON COUNTY, TN

COMPLAINT

Comes the plaintiff, William Rice, and for his cause of action against the defendants would respectfully show to the Court and Jury as follows:

I. The Parties

1.1 The plaintiff, William Rice, is a resident of Mt. Juliet, Wilson County, Tennessee.

1.2 The defendant, Mossberg Corporation, is, upon information and belief, a foreign, for-profit corporation, organized in Delaware, with its principal office at 7 Grasso Avenue, North Haven, Connecticut 06473, doing business in Wilson County, Tennessee, and may be served through its registered agent, Joseph H. Bartozzi, 7 Grasso Avenue, North Haven, Connecticut 06473.

1.3 The defendant, O.F. Mossberg and Sons, Inc., is, upon information and belief, a foreign, for-profit corporation, with its principal office at 7 Grasso Avenue, North Haven, Connecticut 06473, doing business in Wilson County, Tennessee, and may be

EXHIBIT

served through its registered agent, Joseph H. Bartozzi, 7 Grasso Avenue, North Haven, Connecticut 06473.

1.3 The defendant, Maverick Arms, Inc., is, upon information and belief, a foreign, for-profit corporation, organized in Texas, with its principal office at 7 Grasso Avenue, North Haven, Connecticut 06473, doing business in Wilson County, Tennessee, and may be served through its registered agent, CT Corproation System, 350 North St. Paul Street, Dallas, Texas 75201.

II. Jurisdiction

2.1 Because this is a products liability action for unliquidated damages, the Circuit Court has subject matter jurisdiction of this action pursuant to Tenn. Code Ann. §16-10-101.

III. Venue

3.1 This is a transitory action. The events which give rise to this complaint occurred in Wilson County, Tennessee. Consequently, venue is established in Wilson County, Tennessee, pursuant to Tenn. Code Ann. § 20-4-101.

IV. Factual Statements

4.1 On or about May 4, 2010, Mr. Rice was turkey hunting at Cedars of Lebanon State Park in Lebanon, Tennessee.

4.2 Mr. Rice was hunting with a Mossberg Maverick Model 88 12 gauge shotgun.

4.3 Mr. Rice had performed proper cleaning and maintenance on the shotgun prior to hunting that day and had loaded the weapon with appropriate factory loaded shells, specifically 3-inch Remington Nitro Magnum shells.

4.4 The shotgun was not plugged with dirt, mud, or other debris and did not have any other obstructions in the barrel of the shotgun.

4.5 As Mr. Rice attempted to fire the shotgun, however, the barrel of the shotgun exploded at the chamber.

4.6 As a result of the explosion, Mr. Rice received significant damage to his hearing.

4.7 The Mossberg Maverick Model 88 shotgun being used by Mr. Rice was manufactured by the defendants who are in the business of manufacturing and selling this and other shotguns.

4.8 The Mossberg Maverick Model 88 shotgun being used by Mr. Rice was defective.

4.9 The Mossberg Maverick Model 88 shotgun being used by Mr. Rice was unreasonably dangerous.

4.10 The Mossberg Maverick Model 88 shotgun being used by Mr. Rice was in generally the same condition as when it was sold and had not been substantially changed by the retailer or Mr. Rice.

4.11 The Mossberg Maverick Model 88 shotgun being used by Mr. Rice was unsafe for the normal and anticipated handling and use of turkey hunting.

4.12 The Mossberg Maverick Model 88 shotgun being used by Mr. Rice was unsafe because it was not capable of being fired with an appropriate factory loaded shell without exploding.

4.13 The Mossberg Maverick Model 88 shotgun being used by Mr. Rice was more dangerous than an ordinary consumer would reasonably expect it to be because it exploded upon firing with an appropriate factory loaded shell.

4.14 The Mossberg Maverick Model 88 shotgun being used by Mr. Rice would not have been offered for sale by a reasonably careful manufacturer or seller who knew of its dangerous condition.

4.15 The Mossberg Maverick Model 88 shotgun being used by Mr. Rice was in a defective condition or was unreasonably dangerous at the time it left the defendants' control.

4.16 The 3-inch Remington Nitro Magnum shell being used by Mr. Rice on the day of the incident was not defective.

COUNT I

5.1 The defendants are strictly liable to Mr. Rice pursuant to the Tennessee Products Liability Act of 1978.

5.3 The defendants manufactured and/or sold the Mossberg Maverick Model 88 shotgun in a defective and/or unreasonably dangerous condition.

5.4 The Mossberg Maverick Model 88 shotgun was expected to and did reach Mr. Rice without substantial change in the condition in which it was manufactured and sold.

5.5 As a direct and proximate result of the defective and unreasonably dangerous condition of the product manufactured and/or sold by the defendants, the plaintiff suffered damages more fully described later in this complaint.

COUNT II

6.1 The defendants owed Mr. Rice a duty to use reasonable care in designing, manufacturing, testing and inspecting the Mossberg Maverick Model 88 shotgun and in selection, testing and inspection of any component parts made by another manufacturer so that the shotgun could be safely used for hunting.

6.2 The defendants breached these duties by failing to properly manufacture, test, and inspect the shotgun to ensure it was not defective and could be safely fired using appropriate factory loaded shells.

6.3 The defendants' breach was the cause in fact and proximate cause of the damages and injuries to Mr. Rice and constitutes negligence on the part of the defendants.

6.4 As a direct and proximate result of the defendants' negligence, Mr. Rice suffered damages more fully set out later in this complaint.

DAMAGES

7.1 As a direct and proximate result of the defendants' conduct, Mr. Rice received substantial emotional, physical, and economic injuries.

7.2 As a direct and proximate result of the defendants' conduct, Mr. Rice has incurred substantial medical bills for treatment of his injuries.

7.3 As a direct and proximate result of the defendants' conduct, Mr. Rice received permanent injuries, has suffered both in body and mind, lost some of his ability to perform his usual activities, and lost some of his capacity to enjoy the pleasures of life.

WHEREFORE, AND IN CONSIDERATION OF THE ABOVE, THE PLAINTIFF
PRAYS:

1. That proper process issue and be served upon the defendants, requiring them to answer this Complaint within the time required by law;
2. That the Plaintiff be awarded a judgment against the defendants, jointly and severally, in an amount not to exceed \$250,000.00 to compensate the Plaintiff for pain and suffering, permanent impairment, loss of capacity for the enjoyment of life, the cost of the Plaintiff's medical care services, loss of any earning capacity, pre- and post judgment interest, and the costs and discretionary costs in this cause;
3. That this cause be tried by a jury; and,
4. That he have such other, further, and general relief as to which he is entitled.

Respectfully submitted,

MOSELEY & MOSELEY
ATTORNEYS AT LAW

BY: 

James Bryan Moseley
Attorneys for Plaintiff
Suite 300, One Church Street
101 Church Street
Nashville, Tennessee 37201-1609
615/ 254-0140
Fax: 615/ 244-2270

No. 021236

Copy to: Client

CIRCUIT COURT SUMMONS

LEBANON, TENNESSEE

STATE OF TENNESSEE
WILSON COUNTY
15TH JUDICIAL DISTRICT
☒ First
☐ Alias
☐ Plurics

WILLIAM RICE

FILED

A.M. APR 18 2011

3:36 P.M.

LINDA NEAL, CIRCUIT COURT CLERK
WILSON COUNTY, TN

vs.

O.F. MOSSBERG AND SONS, INC.

SERVE: Joseph H. Bartozzi, Registered Agent

7 Grasso Avenue

North Haven, Connecticut 06473

Defendant

CIVIL ACTION
DOCKET NO.

2011-CV-189

Method of Service:

- ☐ Wilson County Sheriff
- ☐ Out of County Sheriff
- ☐ Secretary of State
- ☐ Certified Mail
- ☒ Personal Service
- ☐ Commissioner of Insurance

To the above named Defendant:

You are summoned to appear and defend a civil action filed against you in the Circuit Court, 134 S. College St., Room 100, Lebanon, Tennessee 37087, and your defense must be made within thirty (30) days from the date this summons is served upon you. You are further directed to file your defense with the Clerk of the Court and send a copy to the Plaintiff's attorney at the address listed below.

In case of your failure to defend this action by the above date, judgment by default will be rendered against you for the relief demanded in the complaint.

ISSUED:

2/18/11

LINDA NEAL

Circuit Court Clerk
Wilson County, Tennessee

By:

Linda Neal
Deputy Clerk

ATTORNEY FOR PLAINTIFF

or

PLAINTIFF'S ADDRESS

James Bryan Moseley, MOSELEY & MOSELEY, Attorneys at Law

Suite 300, One Church St., 101 Church St., Nashville, TN 37201

Address

Phone: 615-254-0140 | Fax: 615-244-2270

TO THE SHERIFF:

Please execute this summons and make your return hereon as provided by law.

LINDA NEAL
Circuit Court Clerk

Received this summons for service this _____ day of _____, 20____.

SHERIFF



If you have a disability and require assistance, please contact (615) 444-2042.

CIRCUIT COURT SUMMONS

STATE OF TENNESSEE
WILSON COUNTY
15TH JUDICIAL DISTRICT

☒ First
☐ Alias
☐ Plurics

WILLIAM RICE

FILED

A.M. APR 18 2011 P.M. 3:36

Plaintiff

CIVIL ACTION
DOCKET NO. 2011-CV-189

Method of Service:

- ☐ Wilson County Sheriff
☐ Out of County Sheriff
☐ Secretary of State
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☒ Personal Service
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vs.

LINDA NEAL, CIRCUIT COURT CLERK
WILSON COUNTY, TN

MOSSBERG CORPORATION

SERVE: Joseph H. Bartozzi, Registered Agent

7 Grasso Avenue

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ISSUED: 4/18/11

LINDA NEAL
Circuit Court Clerk
Wilson County, Tennessee

By: *Linda Neal*

Deputy Clerk

ATTORNEY FOR PLAINTIFF

or

PLAINTIFF'S ADDRESS

LINDA NEAL, CLERK, DO HEREBY
CERTIFY THE FOREGOING AS TRUE
AND CORRECT COPY OF THE ORIGINAL
INSTRUMENT ON FILE IN THIS CASE.
James Bryan Moseley, MOSELEY & MOSELEY, Attorneys at Law
Suite 300, One Church St., 101 Church St., Nashville, TN 37201
Address
Phone: 615-254-0140 | Fax: 615-244-2270

APR 18 2011

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LINDA NEAL
CIRCUIT COURT CLERK
WILSON COUNTY, TN

LINDA NEAL
Circuit Court Clerk

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CIRCUIT COURT SUMMONS

FILE COPY
LEBANON, TENNESSEESTATE OF TENNESSEE
WILSON COUNTY
15TH JUDICIAL DISTRICT☒ First
☐ Alias
☐ Pluries

WILLIAM RICE

FILED*3.36*
to

A.M. APR 18 2011

P.M.

LINDA NEAL, CIRCUIT COURT CLERK
WILSON COUNTY, TN

vs.

MAVERICK ARMS, INC.

SERVE: CT CORPORATION SYSTEM, Registered Agent

350 North St. Paul Street

Dallas, Texas 75201

Defendant

CIVIL ACTION
DOCKET NO. _____

Method of Service:

- ☐
- Wilson County Sheriff
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- ☐
- Out of County Sheriff
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- ☐
- Secretary of State
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- ☐
- Certified Mail
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- ☒
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*4/18/11*LINDA NEAL
Circuit Court Clerk
Wilson County, Tennessee

By: _____

Linda Neal
Deputy Clerk

ATTORNEY FOR PLAINTIFF

or

PLAINTIFF'S ADDRESS

James Bryan Moseley, MOSELEY & MOSELEY, Attorneys at Law

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